



Headquarters Policy Flash

FLASH 2000-09

DATE: April 11, 2000
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, MA-51
Office of Procurement and Assistance Management

SUBJECT: **Federal Acquisition Circular (FAC) 97-16**

SUMMARY: This Policy Flash summarizes the three items included in FAC 97-16, which was published in the Federal Register on March 27, 2000, at 65 FR 16273.

Please note: The effective date and applicability date for each item are noted below in the summary.

A companion document, the Small Entity Compliance Guide (SECG), was published with this FAC. Both the FAC and the SECG are available via the Internet at <http://www.arnet.gov/far> . Contracting personnel should review the details of each item in the full text of the FAC .

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1. Small Business Competitiveness Demonstration Program

Effective Date: March 27, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after March 27, 2000.)

This interim rule amends FAR Subpart 19.10 to clarify language pertaining to the Small Business Competitiveness Demonstration (Comp. Demo.) Program, consistent with revisions to the Program that were contained in an OFPP and SBA joint final policy directive dated May 25, 1999.

This interim rule -

- ➡ Advises the contracting officer to consider the 8(a) Program and HUBZone Program, in addition to small business set-asides, for acquisitions of \$25,000 or less in one of the four designated industry groups that will not be set aside for emerging small business concerns.
- ➡ Adds FAR 19.1006, Exclusions, to specify acquisitions to which Subpart 19.10 does not apply. None of the Small Business Comp. Demo. policies and procedures apply to orders under the Federal Supply Schedule Program or to contracts awarded to educational and nonprofit institutions or governmental entities.

This interim rule only will affect contracting officers at participating agencies when acquiring supplies or services subject to the procedures of the Small Business Comp. Demo. Program. The participating agencies are: Department of Agriculture; Department of Defense, except the National Imagery and Mapping Agency; **Department of Energy**; Department of Health and Human Services; Department of the Interior; Department of Transportation; Department of Veterans Affairs; Environmental Protection Agency; General Services Administration; and National Aeronautics and Space Administration.

***Please note:** If you have comments on this interim rule, please forward them to Robert Webb, MA-51, telephone no. 202-586-8264, no later than May 5, 2000 for a consolidated DOE response.*

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2. Progress Payments and Related Financing Policies

Effective Date: March 27, 2000

Applicability Date: The FAR coverage, as amended by this rule, is mandatory for solicitations issued on or after May 26, 2000, but contracting officers may, at their discretion, include the clauses and provisions in this rule in solicitations issued before May 26, 2000).

This final rule revises certain financing policies in FAR Part 32, Contract Financing, and related contract provisions in FAR Part 52.

The rule -

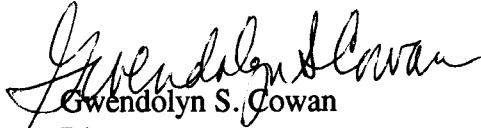
- ➡ Emphasizes that performance-based payments are the preferred method of contract financing. Performance-based payments are contract financing payments made after achievement of predetermined goals, such as performance objectives or defined events. Contracting officers should consider performance-based payments and deem their use impracticable before deciding to provide customary progress payments.
- ➡ Permits contracting officers to provide contract financing on contracts awarded to large businesses if the individual contract is \$2 million or more. Previously, the threshold in the FAR for financing a contract with a large business was \$1 million.
- ➡ Permits a large business to bill the Government for subcontract costs that the large business has incurred but not actually paid, if certain conditions are met. Previously, the FAR permitted only small business concerns to bill for subcontract costs that have been incurred but not paid.
- ➡ Permits the contracting officer to use performance-based payments in contracts for research and development, and in contracts awarded through competitive negotiation procedures.

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3. Technical Amendments

Effective Date: March 27, 2000

These amendments update references and make editorial changes at sections 1.106, 1.201-1, 1.304, 6.305, 9.404, 9.405, 15.404-1, 49.105-2, 52.212-1, 52.217-9, and 52.219-23.



Gwendolyn S. Cowan
Director

cc:
PPAG Members